

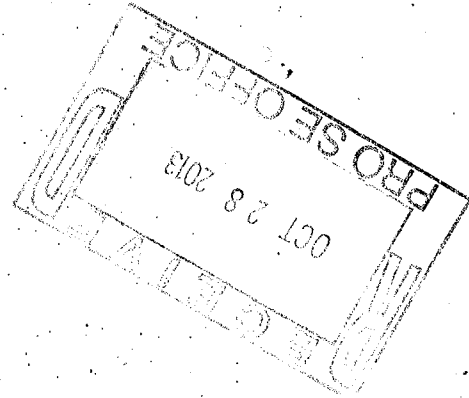
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKABRAHAM CUCUTA,

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

NEW YORK CITY, MANHATTAN NORTH NARCOTICS  
 DETECTIVES ERICK ORTIZ, ABEL JOSEPH CARPENTER,  
 LIAM McLAUGHLIN, SERGEANT NEFTALI BETANLES,  
 LIEUTENANT ANTHONY RONDA, CAPTAIN KEVIN BADDAY,  
 RYAN P. POSCABIO, JESSICA ORTIZ, POLICE  
 OFFICER WINSTON FAVIS, AGUASANTE, JOHN  
 DOES 1-5, INDIVIDUALLY AND IN THEIR OFFICIAL  
 CAPACITY,

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC#SECOND  
AMENDEDDATE FILED 10-22-13  
COMPLAINT  
13 CIV.558 (PAC) (ASP)Jury Trial: ☒ Yes ☐ No  
(check one)

## I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name ABRAHAM CUCUTA, REG. NO. 64974-054  
 Street Address P.O. BOX 350  
 County, City RALEIGH, BEAVER  
 State & Zip C WEST VIRGINIA 25813  
 Telephone Number \_\_\_\_\_

- B. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendants No. 1

NEW YORK CITY, ERICK ORTIZ, ABEL JOSEPH, CARPENTER  
 LIAM MLLAUGHLIN, NEFTALI BETANCES, LT ANTHONY RHONDA  
 CAPT. KEVIN RABDAY, RYAN P. POSLABLO, JESSICA ORTIZ POLICE OFFICER  
 WINSTON FAVIS AGUASANTE, JOHN DOES 1-5 INDIVIDUALLY AND  
 IN THERE OFFICIAL CAPACITY  
 Street Address 1 POLICE PLAZA  
 County, City NEW YORK, NEW YORK  
 State & Zip Code NEW YORK 10038  
 Telephone Number \_\_\_\_\_

Defendant No. 2

Name \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 County, City \_\_\_\_\_  
 State & Zip Code \_\_\_\_\_  
 Telephone Number \_\_\_\_\_

Defendant No. 3

Name \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 County, City \_\_\_\_\_  
 State & Zip Code \_\_\_\_\_  
 Telephone Number \_\_\_\_\_

Defendant No. 4

Name \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 County, City \_\_\_\_\_  
 State & Zip Code \_\_\_\_\_  
 Telephone Number \_\_\_\_\_

**II. Basis for Jurisdiction:**

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal Questions☐ Diversity of CitizenshipB. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? SEARCH AND SEIZURE, DUE PROCESS, EQUAL PROTECTION

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship \_\_\_\_\_

Defendant(s) state(s) of citizenship \_\_\_\_\_

**III. Statement of Claim:**

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. Where did the events giving rise to your claim(s) occur? 1957 SECOND AVENUE, APARTMENT 301, NEW YORK, NEW YORK 10019

B. What date and approximate time did the events giving rise to your claim(s) occur? APRIL 13TH, 2011, AT 12:30 PM.

C. Facts: SEE ATTACHED PAGES 4 AND 5.

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

**IV. Injuries:**

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. \_\_\_\_\_

III. C. FACTS: 1) TAMIKA TAYLOR IS PLAINTIFF'S GIRLFRIEND, SHE RESIDES WITH HER FAMILY AT 1932 SECOND AVENUE, APARTMENT #301, NEW YORK, NEW YORK 10029.

2) PLAINTIFF KEPT SOME PERSONAL ITEMS SUCH AS CLOTHING, SHOES, AND OTHER THINGS, AT HIS GIRLFRIEND'S HOME AND WOULD SOMETIMES SLEEP OVER.

3) IT WAS UNDERSTOOD THAT NO-ONE WOULD TAMPER WITH PLAINTIFFS BELONGINGS UNLESS GRANTED PERMISSION BY PLAINTIFF OR HIS GIRLFRIEND, GIVING PLAINTIFF AN EXPECTATION OF PRIVACY IN THE HOME.

4) ON APRIL 13TH, 2011, AT APPROXIMATELY 12:30 PM, PLAINTIFF'S GIRLFRIEND WAS HOME WITH HER BROTHER ANDRE MONTGOMERY, FAMILY FRIEND ADAM HOLAN, AND HER THREE YEAR OLD SON (ALL OCCUPANTS).

5) NEW YORK CITY POLICE DEPARTMENT MANHATTAN NORTH NARCOTICS  
DETECTIVES ERICK ORTIZ, LIAM McLAUGHLIN, ABEL JOSEPH, SERGEANT NEFTALI BETANCES,  
CARPENTER, ~~AND OTHERS~~ LIEUTENANT ANTHONY RONDA, CAPTAIN KEVIN RADDAY,  
~~AND~~ POLICE OFFICER WINSTON FAVIS, AGUASANTE, AND JOHN DOE'S L5, AFTER  
ILLEGALLY RINGING PLAINTIFF'S CELL PHONE KNOCKED ON PLAINTIFF'S GIRLFRIEND'S DOOR,  
CONFIRMED THAT MS TAYLOR WAS PLAINTIFF'S GIRLFRIEND, INFORMED HER THAT PLAINTIFF  
DEFENDANT RONDA  
HAD JUST BEEN ARRESTED, AND LIES THAT THEY WANTED TO GIVE HER HIS PROPERTY AS A  
RUSE SO THAT SHE WOULD OPEN THE DOOR.

6) IN RESPONSE, MS TAYLOR OPENED THE DOOR TO STEP OUT INTO THE  
HALWAY, HOWEVER, <sup>RONDA AND RABDAY</sup> ~~AND~~ DEFENDANTS <sup>AND ENTERED</sup> ~~STEPPED~~ PASSED HER ~~AND ENTERED~~ THE  
APARTMENT, FOLLOWED BY THE OTHER DEFENDANTS.

7) THE DEFENDANTS DID NOT REQUEST PERMISSION TO ENTER AND NONE WAS GIVEN.

2) ONCE INSIDE, ~~THE~~ DEFENDANT <sup>RONDA</sup> ↓ STATED THEY HAD INFORMATION THAT THERE WAS A RIFLE IN THE APARTMENT, FROZE THE APARTMENT, FAKELY CLAIMED THEY WERE GETTING A SEARCH WARRANT, AND DID NOT ALLOW THE OCCUPANTS TO GO ANYWHERE.

9) ALL DEFENDANTS THEN REFUSED TO COMPLY WITH MR MONTGOMERY'S REQUESTS TO WAIT OUTSIDE IN THE HALLWAY IF THEY DID NOT PRESENTLY HAVE A SEARCH WARRANT AND FORCED ALL THE OCCUPANTS TO STAY PUT AND NOT LEAVE THE APARTMENT.

DEFENDANT RONDA TOOK MS TAYLOR'S PHONE AND INFORMED HER THAT  
10) ~~MS TAYLOR'S PHONE WAS IN THE HAND OF THE DEFENDANT~~

SHE ~~COULD~~ NOT ~~MAKE~~ <sup>MAKE</sup> ANY CALLS.

1) AND MS TAYLOR ATTEMPTED TO TEND TO HER SON IN A BEDROOM  
~~DEFENDANT~~ ~~RAY~~ RADDAY RESTRAINED AND HANDCUFFED HER AND HER BROTHER.

12) ALL DEFENDANTS THEN BEGAN SEARCHING HER AND HER BROTHER'S BEDROOMS.

13) DEFENDANT ORTI THEN ENTERED MR HOWAN'S ROOM, PULLED HIS COVERS OFF HIM (HE WAS IN BED) AND HANDCUFFED HIM.

14) ALL OCCUPANTS WERE THEN REMOVED FROM THE APARTMENT AND HELD IN THE HALLWAY.

15) WHILE IN THE HALLWAY DRAWERS AND DOORS COULD BE HEARD BEING OPENED AND CLOSED AS <sup>ALL</sup> ~~THE~~ DEFENDANTS ILLEGALLY SEARCHED THE PREMISES.

16) PERMISSION FOR THE WARRANTLESS SEARCH WAS NEVER GIVEN BY ANYBODY.

17) PRIOR TO THE SEARCH THERE WAS A <sup>TACTICAL PLAN</sup> MEETING BY THE NAMED DEFENDANTS WITH ~~DEFENDANT~~ POSCABLO WHERE AN AGREEMENT WAS MADE THAT IF PLAINTIFF'S RESIDENCE HAD BEEN DETERMINED THE APARTMENT WOULD BE SECURED AND SEARCHED.

18) IT IS PART OF THE POLICY, CUSTOM, AND PRACTICE OF THE CITY OF NEW YORK FOR ~~THE~~ THE ABOVE NAMED DEFENDANTS AS PART OF THEIR TACTICAL PLANS WHEN THEY GO OVER A CASE TAKEDOWN IF A PREMISES IS SECURED OF SUBJECTS - TO SPEAK TO DEFENDANT POSCABLO TO SEARCH FOR FIREARMS AND CONTRABAND EVIDENCE.

19) THERE WAS NO ARREST WARRANT FOR ANY OF THE OCCUPANTS.

20) DEFENDANTS JOSEPH AND POSCABLO THEN TRIED TO COVER-UP THE ILLEGAL SEARCH AND SEIZURE BY SECURING A WARRANT WITH <sup>SWORN</sup> ~~SWORN~~ TO CAUSITIES BY DEFENDANT JOSEPH APPROXIMATELY FIVE HOURS AFTER THE ILLEGAL SEARCH AND SEIZURE.

21) THE SECURED WARRANT WAS NEVER ACTED ON SINCE THE SEARCH AND SEIZURE HAD ALREADY OCCURRED EARLIER.

## V. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation. \$1,000,000 IN NOMINAL, MONETARY, COMPENSATORY, AND PUNITIVE DAMAGES

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 22 day of OCTOBER, 2013

Signature of Plaintiff

Alphonse L. Beckley

Mailing Address

REG. NO. 64974-054

F.C.I. BECKLEY

P.O. BOX 350, BEAVER WV 25813

Telephone Number

Fax Number (if you have one)

**Note:** All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

**For Prisoners:**

I declare under penalty of perjury that on this 22 day of OCTOBER, 2013 I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Alphonse L. Beckley

Inmate Number

64974-054



ABRAHAM CUCUTA-64974-054

FCI BECKLEY

Federal Correctional Institution

P.O. BOX 350

BEAVER, WV 25813

64974-054  
Pro Se Usdc Sdny  
500 Pearl St, Room 330  
NEW YORK, NY 10007  
United States

USDC  
SDNY

2011 OCT 26 P 2 38